



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2867



James T. Rymes
2 Main Street
Antrim, NH 03440

NOTICE OF PAST VIOLATIONS
WD WQE 02-01
July 31, 2002

RE: DES Alteration of Terrain File # 020116-01

Dear Mr. Rymes:

This Notice of Past Violation is being issued to document a violation of RSA 485-A:17, Terrain Alteration, which occurred in conjunction with work done on property owned by you and located off the Second NH Turnpike adjacent to the former Hawthorne Airport in Deering, NH, more particularly identified on Town of Deering Tax Map 6 as Lot 764 (the "Property").

On November 16, 1998, a wetlands application was submitted to the NH Department of Environmental Services ("DES") on behalf of James Rymes for the installation of a culvert to access the Property. On April 1, 1999, DES received a supplementary letter to the wetlands application from Tom Davis, authorized agent for Mr. Rymes. In this letter, Mr. Davis stated that "The shape of this property would not allow us to provide added aircraft area without the need for this project....With this property being an airport, we feel that the use of this project for aircraft is not unreasonable." This April 1, 1999 letter reveals Mr. Rymes' intent to use the Property as an expansion to the existing airport.

On July 26, 1999, DES issued Letter of Deficiency No. WD WQE 99-002 (the "LOD") to Mr. Rymes. The LOD informed Mr. Rymes that a Site Specific permit was required for the disturbance on the Property since it was greater than 100,000 sq. ft. On August 3, 1999, Mr. Rymes responded to the LOD. In the response, Mr. Rymes informed DES that the Property was being used for agriculture and was therefore exempt from Site Specific regulation. Specifically, the letter stated, "At this time, the [Property] is being used for agricultural purposes. A decision has been made to replant the property with evergreens, etc. It is my understanding that, for this reason, we are exempt from obtaining a permit. Should a decision be made in the future to use less than 100,000 square feet of the clearing for other than agricultural purposes, the remaining cleared footage would still be used for agricultural purposes."

On November 23, 1999, DES inspected the Property to determine if it was being used for agricultural purposes. DES personnel observed that evergreens had not been planted and the site had not been stabilized since the initial disturbance earlier in 1999. These observations provide further evidence that the Property was not being used for agricultural purposes.

By letter dated May 8, 2000, DES informed Mr. Rymes that a Site Specific permit would be required prior to commencing work on a contiguous area of greater than 100,000 sq. ft. (approx 2.3 acres). The letter also advised Mr. Rymes that new work on the Property associated with construction of a T-hanger for the Hawthorne Airport was contrary to Mr. Rymes' August 3, 1999 letter, in which he claimed that the land was cleared for agricultural purposes.

On January 15, 2002, DES received a Site Specific application from Mr. Rymes for the construction of 15 new T hangers as part of the expansion of the former Hawthorne Airport

located on the Property

On July 23, 2002, DES personnel inspected the Property and found no evidence that evergreens had ever been planted.

RSA 485-A:17 and the rules adopted pursuant thereto, Env-Ws 415, are intended to protect surface water quality from being degraded as a result of any activity that significantly alters the terrain or occurs in or on the border of the surface waters of the state. Prior to disturbing more than 100,000 sq. ft. of contiguous area, an individual is required to obtain a permit. DES thus considers the work done to clear the Property prior to obtaining a Site Specific permit to have violated RSA 485-A:17, as it is apparent that the agricultural exemption did not apply. Because an application for a permit has now been filed, no further action is required to remedy this violation.

Please be advised that DES personnel may inspect the Property again to determine whether compliance with the applicable statute and rules is being maintained. Issuance of this letter shall not preclude enforcement by DES should additional violations be identified. Failure to comply with RSA 485-A:17 and Env-Ws 415 may result in enforcement, including but not limited to administrative fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for civil or criminal prosecution. If an order is issued, it may be recorded with the Registry of Deeds as an encumbrance against the Property.

If you disagree with the facts or conclusions drawn in this Notice, we encourage you to so inform us and to submit all evidence that supports your position. Any documents submitted in response to this Notice of Past Violations should be addressed as follows:

Andrew O'Sullivan
Site Specific Bureau
Department of Environmental Services
6 Hazen Drive
PO Box 95
Concord, NH 03302-0095

Should you have any questions regarding this letter, please contact Mr. O'Sullivan at (603) 27 2973.

Sincerely,

COPY
for René Penetier

Department of Environmental Services
Land Resources Management

CERTIFIED MAIL #7000 0600 0023 9936 4636

cc: Andrew O'Sullivan, Land Resources Management Program
Gretchen Rule, Administrator, DES Legal Unit
Mark Harbaugh, DES Enforcement Attorney
Deering Conservation Commission
Deering Board of Selectmen